



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF MAILING

Inventor(s): Richard J. Schultz
Application No.: 10/749,755
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Examiner: Mark Spisich
Art Unit: 1744
Last Office Action: October 27, 2005
Title: **SURGICAL INSTRUMENT
CLEANING BRUSH**

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Mail Stop RCE: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on January 20, 2006.

January 20, 2006
(Date of deposit)

Elaine Checovich

Elaine Checovich
(Signature)

MAIL STOP RCE
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

January 20, 2006
Date of Signature

DECLARATION UNDER 37 CFR 1.132

Dear Sir:

The undersigned declares as follows:

1. My name is Richard J. Schultz. I am currently the President of Spectrum Surgical Instruments, Inc. ("SSIC"). I have been the President of SSIC since 1986.
2. I am the inventor of the invention described in the above-captioned patent application and am familiar with it.
3. I am familiar with the marketplace for surgical instruments and have been familiar with it for the past 19 years.
4. SSIC sold surgical instrument cleaning brushes without anti-bacterial or anti-microbial properties prior to 2003. In 2001 and 2002, the brushes without anti-bacterial or anti-microbial properties had the following unit sales and gross receipts for the years given in the following table:

Year	Unit Sales (# brushes)	Gross Receipts
2001	99,064	\$664,522
2002	103,950	\$697,295

5. On or about January 2003, SSIC began selling surgical instrument cleaning brushes having bristles with anti-bacterial and/or anti-microbial properties in the United States. The sole difference between the brushes sold prior to January 2003 and the brushes sold afterwards was the bristles had anti-bacterial and/or anti-microbial properties.

6. These surgical instrument cleaning brushes with anti-bacterial and/or anti-microbial properties were an immediate success and had the following unit sales and gross receipts for the years given in the following table:

Year	Unit Sales (# brushes)	Gross Receipts
2003	148,500	\$996,000
2004	198,000	\$1,294,000
2005	247,500	\$1,642,000

7. If SSIC had continued to sell only surgical instrument cleaning brushes without bristles having anti-bacterial and/or anti-microbial properties, unit sales would have been expected to rise by only 5 to 10%.

8. However, unit sales of surgical instrument cleaning brushes with bristles having anti-bacterial and/or anti-microbial properties rose 43% in 2003, 33% in 2004, and 25% in 2005. Gross receipts rose 43% in 2003, 33% in 2004, and 27% in 2005.

9. Some competitors of SSIC who also sell cleaning brushes include Healthmark, Key Surgical, and Cygnus Medical. Each of these competitors is similar in size to SSIC.

10. To the best of my knowledge, neither Healthmark, Key Surgical, nor Cygnus Medical currently sell surgical instrument cleaning brushes with bristles having anti-bacterial and/or anti-microbial properties.

11. To the best of my knowledge, no other company currently sells surgical instrument cleaning brushes with bristles having anti-bacterial and/or anti-microbial

properties.

12. Neither I nor SSIC own any affiliated companies which would have purchased or would purchase surgical instrument cleaning brushes.

13. SSIC advertises in various trade publications including: Surgical Products, Infection Control Today, Managing Infection Control, OR Manager, Outpatient Surgery, Healthcare Purchasing News, and Communique. SSIC's ads have appeared each month in these listed publications prior to and after the introduction of the surgical instrument cleaning brushes with bristles having anti-bacterial and/or anti-microbial properties.

14. SSIC's advertising budget for the period of 2001 to 2005 was \$595,000.


15. SSIC's advertising budget for 2004 was \$124,000.

16. SSIC's advertising budget for 2005 was \$122,000.

17. Even though the advertising budget decreased from 2004 to 2005, unit sales and gross receipts continued to increase.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Respectfully submitted,

By 

Printed Name: Richard J. Schultz

Date: 1-19-06